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DEPARTMENT OF THE INTERIOR**Fish and Wildlife Service****Notice of Availability of an Environmental Assessment/Habitat Conservation Plan and Receipt of an Application for Incidental Take Permit During Construction on Lot 5 of a Single Family Residence on 2.75 Acres on Pearce Road in Travis County, Texas**

SUMMARY: Brent Mayberry (Applicant) has applied to the U.S. Fish and Wildlife Service (Service) for an incidental take permit pursuant to Section 10(a) of the Endangered Species Act (Act). The Applicant has been assigned permit number TE-012963-0. The requested permit, which is for a period of 7 years, would authorize the incidental take of the endangered golden-cheeked warbler (*Dendroica chrysoparia*). The proposed take would occur as a result of the construction of a single family residence on Pearce Road, Travis County, Texas.

The Service has prepared the Environmental Assessment/Habitat Conservation Plan (EA/HCP) for the incidental take application. A determination of jeopardy to the species or a Finding of No Significant Impact (FONSI) will not be made until at least 30 days from the date of publication of this notice. This notice is provided pursuant to Section 10(c) of the Act and National Environmental Policy Act regulations (40 CFR 1506.6).

DATES: Written comments on the application should be received on or before October 4, 1999.

ADDRESSES: Persons wishing to review the application may obtain a copy by writing to the Regional Director, U.S. Fish and Wildlife Service, P.O. Box 1306, Albuquerque, New Mexico 87103. Persons wishing to review the EA/HCP may obtain a copy by contacting Christina Longacre, Ecological Services Field Office, 10711 Burnet Road, Suite 200, Austin, Texas 78758 (512/490-0063). Documents will be available for public inspection by written request, by appointment only, during normal business hours (8:00 to 4:30) at the U.S. Fish and Wildlife Service, Austin, Texas. Written data or comments concerning the application and EA/HCP should be submitted to the Field Supervisor, Ecological Services Field Office, Austin, Texas at the above address. Please refer to permit number

TE-012963-0 when submitting comments.

FOR FURTHER INFORMATION CONTACT: Christina Longacre at the above Austin Ecological Services Field Office.

SUPPLEMENTARY INFORMATION: Section 9 of the Act prohibits the "taking" of endangered species such as the golden-cheeked warbler. However, the Service, under limited circumstances, may issue permits to take endangered wildlife species incidental to, and not the purpose of, otherwise lawful activities. Regulations governing permits for endangered species are at 50 CFR 17.22.

Applicant

Brent Mayberry plans to construct a single family residence on Pearce Road, Travis County, Texas. This action will eliminate less than three quarters of an acre of habitat and indirectly impact less than four additional acres of golden-cheeked warbler habitat. The applicant proposes to compensate for this incidental take of golden-cheeked warbler habitat by donating \$1,500 into the Balcones Canyonlands Preserve to acquire/manage lands for the conservation of the golden-cheeked warbler.

Alternatives to this action were rejected because not developing the subject property with federally listed species present was not economically feasible, and alteration of the project design would not decrease the impacts.

Geoffrey L. Haskett,

*Acting Regional Director, Region 2,
Albuquerque, New Mexico.*

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DEPARTMENT OF THE INTERIOR**Fish and Wildlife Service****[TE 016724]****Endangered and Threatened Wildlife and Plants: Notice of Availability and Opening of Comment Period for an Application for an Incidental Take Permit to Allow Take of an Endangered Species by Cinergy Corporation, Gibson County, IN, and National Environmental Policy Act Determination**

SUMMARY: The US Fish and Wildlife Service (Service) provides notice of the availability of a Habitat Conservation Plan (HCP) and Incidental Take Permit Application received from Cinergy Corporation, Gibson County, Indiana, and the Service's National Environmental Policy Act Determination for the proposed action

of permit issuance. In 1986, a single pair of endangered interior least terns (*Sterna antillarum*) nested at Cinergy's Gibson Generating Station in Gibson County, Indiana. Since that time, the least tern colony at the facility has grown. The most terns ever recorded in a single year was in 1998 when an estimated 85 adult terns, 63 nests, and 72 fledged young were present. Since the initial discovery, Cinergy has worked with the Indiana Department of Natural Resources and the Service to maintain conditions favorable for successful tern production at the Gibson Generating Station. All tern nesting habitat at the Gibson Generating Station was created as the result of the construction and maintenance of the facility. No tern habitat existed at this site prior to construction of the generating station and associated facilities. Cinergy has voluntarily enhanced the habitat to maintain and improve nesting conditions for least terns. Cinergy proposes to continue efforts to enhance nesting opportunities for least terns on the facility. However, some least tern nesting has occurred in active ash disposal areas and on access roads to these areas and Cinergy acknowledges that the operation and maintenance of the Gibson Generating Station entails some potential for incidental take. The applicant has submitted an HCP detailing their proposal for management of least terns at the facility, and seeks an incidental take permit for a 5 year period. The proposed take of least terns (adults, chicks, or eggs) will not exceed 5% of the estimated maximum adult population present on the facility in any given year. The net result of activities proposed in Cinergy's HCP will be an increase in suitable tern nesting habitat; no existing habitat will be destroyed. However, attempts may be made to make ash disposal areas and associated access roads, areas where there is potential for incidental take of terns, less attractive as potential nesting sites. Cinergy will continue to maintain the core nesting area at the Gibson Generating Station in a condition favorable for least tern nesting. In addition, Cinergy will assist in the development of the 187-hectare Cane Ridge Wildlife Area, which will include creation of least tern nesting units. These tern nesting units, which will be immediately adjacent to the Gibson Generating Station, will be owned and managed by the Service and will provide additional suitable habitat for least terns. The HCP and Incidental Take Permit Application are available for public review and comment for a